

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

In re:	§	
Wright Brothers Aircraft Title, Inc.	§	Chapter 7
	§	Case No. 21-10994 JDL
Debtor.	§	

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY WITH BRIEF IN
SUPPORT THEREOF AND NOTICE OF OPPORTUNITY FOR HEARING**

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of this request for relief. You should also serve a file stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice.

The 14-day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006(f).

The United States, for its Motion for Relief from Stay, alleges and states as follows:

1. Debra Lynn Mercer-Erwin, owner of Debtor Wright Brothers Aircraft Title, Inc. ("WBAT") is a defendant in a criminal case pending in the Sherman Division of the Eastern District of Texas, *United States v. Debra Lynn Mercer-Erwin*, Case No. 4:20-cr-212 (the "EDTX Criminal Case").

2. Following an investigation into WBAT, the government sought and obtained a seizure warrant for the WBAT accounts at Bank of America (“BOA”). The seizure warrant captured the entire balance of the funds that were in the WBAT account between December 18, 2020 and continued to capture all deposits made into the account up January 2, 2021. The seizure warrant zeroed out the entirety of the funds in the WBAT BOA account.

3. On January 7, 2021, a company called AML Global Payments, LLC deposited \$495,000 into the WBAT BOA account to purchase an airplane, N990NA. This transaction was not processed by WBAT because Mercer-Erwin had been arrested in mid-December 2020 and stopped processing all closing, including airplane-purchase transactions. Those funds remain on deposit with BOA to this day.

4. Because the source of AML Global’s deposit was evident from bank records and were never commingled with any seized funds, and because WBAT never had any ownership interest in those funds, the government and Mercer-Erwin filed a joint motion for turnover order in the EDTX Criminal Case on April 5, 2021. A copy of that motion is attached hereto as Exhibit 1.

5. The purpose of the motion was to compel BOA to return the \$495,000 to AML Global without threat of competing claims from third parties who had no legal interest in those funds, including some of the creditors in the immediate bankruptcy proceeding. As explained in the turnover motion, the government sought to prevent AML Global from becoming a victim in the EDTX Criminal Case through no fault of its own. *See* Exhibit 1, at 8-10.

6. On April 17, 2021, several creditors filed the immediate involuntary bankruptcy petition against WBAT.

7. On April 21, 2021, Eastern District of Texas district judge Amos Mazzant entered a turnover order requiring BOA to turnover the \$495,000 in question to AML Global Payments, LLC. In that order, Judge Mazzant ruled that “upon its compliance with this Order, Bank of America shall thereafter be forever discharged from any and all liability arising from or otherwise associated with its distribution of funds in compliance with such order.” A copy of the turnover order is attached hereto as Exhibit 2.

8. Because of the pendency of this bankruptcy matter and its fear of the bankruptcy stay, BOA has never complied with the turnover order from the EDTX Criminal Case.

9. Section 362(b)(1) of the Bankruptcy Code authorizes relief from the stay for the “continuation of a criminal action or proceeding.” 11 U.S.C. § 362(b)(1).¹ The turnover order in question was issued as part of a pending criminal action in the Eastern District of Texas. The turnover order was issued to help prevent an innocent party from becoming a victim due to the charges pending in the EDTX Criminal Case. Therefore, the turnover order—and Bank of America’s compliance therewith—is excepted from the automatic stay.

¹ This Court has long recognized that the continuation of a criminal action or proceeding is specifically excluded from the automatic stay. *See In re: Whitburn*, Case No. 15-01284, in the Bankruptcy Court for the Western District of Oklahoma, at Dkt. No. 10 (default judgment for the United States to enforce restitution judgment despite pendency of bankruptcy). *See also In re Partida*, 862 F.3d 909, 911 (9th Cir. 2017); *In re James D. Robinson, Jr.*, 764 F.3d 554, 560 (6th Cir. 2014).

10. The United States respectfully requests that as a part of the order for relief, the Court waive the provisions of Fed. R. Bankr. P. 4001(a)(3) staying the effectiveness of the Order for fourteen (14) days so that Bank of America can immediately comply with the turnover order in the EDTX Criminal Case.

WHEREFORE, the United States prays as follows:

- (1) For an Order granting relief from the automatic stay allowing for Bank of America to comply with the turnover order issued by the Eastern District of Texas in *United States v. Debra Lynn Mercer-Erwin*, Case No. 4:20-cr-212; and
- (2) For such other relief as this Court deems appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document was electronically served on all counsel of record by way of the Court's CM/ECF system on the 18th day of May, 2022 and on the following by first class U.S. mail, postage prepaid, on the following:

Wright Brothers Aircraft Title, Inc. P.O. Box 891860 Oklahoma City, Oklahoma 73189	Wright Brothers Aircraft Title, Inc. 928 SW 107 th Street Oklahoma City, Oklahoma 73170
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/s/ Robert Austin Wells
ROBERT AUSTIN WELLS
Special Assistant United States Attorney